

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

John R. Crooker

v.

Civil No. 05-cv-008-JD

Anheuser-Busch, Inc.

O R D E R

John R. Crooker brought a breach of contract action in state court against his former employer, Anheuser-Busch, Inc. ("AB"), alleging that AB failed to honor its obligations under his Employment Agreement and his Severance Agreement. AB removed the case to this court, asserting federal question jurisdiction, based on preemption of Crooker's claims by the Employee Retirement Income Security Act ("ERISA") and the Labor Management Act, and diversity jurisdiction. AB then moved to have the case proceed under Local Rule 9.4, which governs ERISA cases. Crooker disputed AB's preemption theory. The court directed AB to file a motion to dismiss, based on ERISA preemption, and gave Crooker the options of responding to the motion either by filing an amended complaint or an objection.

AB filed a motion to dismiss based on ERISA preemption on October 14, 2005. Crooker responded by filing an amended complaint on October 28, 2005, in which he alleges two claims, both under ERISA. Therefore, AB's motion to dismiss is moot.

Because this case now involves only ERISA claims, it will proceed under Local Rule 9.4. AB shall file its answer to Crooker's current complaint and a copy of the administrative record within twenty days of the date of this order. LR 9.4(a). Thereafter, the case will proceed under Local Rule 9.4 rather than the standard litigation track. The discovery plan approved on February 22, 2005, is vacated and will no longer govern proceedings in this case. See LR 9.4(d).

Conclusion

For the foregoing reasons, the defendant's motion to dismiss (document no. 27) is terminated as moot.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

November 17, 2005

cc: David A. Garfunkel, Esquire
Andrea K. Johnstone, Esquire
Paul B. Kleinman, Esquire
Shenanne Ruth Tucker, Esquire